

**NIELSEN MERKSAMER
PARRINELLO GROSS & LEONI LLP**
ATTORNEYS AT LAW

2350 KERNER BOULEVARD, SUITE 250
SAN RAFAEL, CALIFORNIA 94901

TELEPHONE (415) 389-6800 FAX (415) 388-6874

2013 JUL 11 11:00:05

OFFICE OF
CITY CLERK

July 10, 2013

VIA PDF & FEDERAL EXPRESS

Jeff S. Jordan, Supervisory Attorney
Complaints, Examination and Legal Administration
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RE: MUR 6734; Edward Donaghy

Dear Mr. Jordan:

Mr. Donaghy was contacted by you by letter dated May 14, 2013, questioning whether a complaint the FEC received from Citizens for Responsibility and Ethics identified him as exceeding his 2011-2012 biennial limit by approximately \$39,300.

Your letter provided him an opportunity to demonstrate in writing that no action should be taken against him in this matter, and your office accepted our law office as his counsel and allowed him to reply by July 6, 2013. (See attachments #1 and #2.) On July 5, 2013, I phoned Frankie Hampton in your office requesting that Mr. Donaghy be given a few more days to complete his remedial activities, and she extended the reply deadline to July 12, 2013.

Mr. Donaghy has reviewed and approved this letter written on his behalf, and he will submit statements under oath if asked.

Mr. Donaghy had no knowledge that federal campaign law included biennial limits. He understood that the Federal Election Campaign Act had a per candidate per election \$2,500 limit, and he complied with it. However, he did not know the Act also had a 2011-2012 biennial limit of \$117,000 for all his federal contributions and different levels for candidates, Parties and PACs.

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Mr. Donaghy does not remember any committees to whom he contributed informing him of this limit. Nor does he remember any correspondence from these committees informing him that he and his wife could re-attribute his contributions to her in whole or in part.

Introduction

Mr. Donaghy and his wife, Janis, both make contributions to federal candidates, national parties and local parties and PACs, and had they known of the biennial limits, as the enclosed documents show, they could have easily been well within the biennial limits (including each sub-limit) for each of them in making all the contributions made by them both during these last two years.

Request for no Action

Because Edward Donaghy (1) is taking full responsibility for not knowing there were biennial limits, (2) has sought and received refunds in excess of the total amount he exceeded the biennial limit on candidate contributions and has made one re-attribution to bring him below the biennial limit for local parties and PACs, (3) has been informed by me the *McCutcheon* case will soon answer whether these biennial limits are constitutional and (4) is cooperating with your request for information in this matter, he asks that no action should be taken against him for this inadvertent violation.

Summary of Enclosed Documents

This law firm did not represent Edward or Janis Donaghy before being contacted by Mr. Donaghy after he received your letter. Mr. Donaghy immediately provided me their federal contributions made in 2011 and 2012, which our office then arranged them in chronological order and categorized them by contributions to (1) candidates, (2) national parties and (3) PACs and federal accounts of state and local parties. (See Attachments #3 and #4.)

Actions Taken to Come Within Limits

After providing these charts to Edward and Janis Donaghy the following activities commenced:

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First, as you will see by looking at both contribution histories, their combined totals are well within all the FECA legal limits, had the law allowed for a joint limit of \$234,000 (with double sub-limits). Said another way, once Ed Donaghy received your letter, he and Janis could have sent a series of re-attribution letters to a number of committees to whom he made contributions, and had they re-attributed these contributions to Janis Donaghy, he would not have needed to take all actions discussed below.

Second, Mr. Donaghy immediately commenced communications with many of the campaigns to whom he contributed seeking refunds. He also sought one re-attribution from the one joint fundraising committee to which he contributed numerous times.

Mr. Donaghy was successful in reducing his net 2011-2012 contributions to be within all his individual biennial limits and without affecting Janis's compliance, as she remains within her limits, as follows.

(a) To decrease his contributions to candidates, he sought and received refunds from four candidate committees that total \$16,000. (See Attachment #5.) Prior to these refunds, he had exceeded his candidate limit by \$6,800; the refunds lowered his total to \$9,200 below the biennial limit.

(b) To decrease his contributions to national parties, he sought and received a \$10,000 refund from the National Republican Congressional Committee. (See Attachment #5.)

(c) To decrease his contributions to PACs and state parties, he immediately contacted "Romney Victory," a joint fundraising committee. On June 5, 2013, it approved authorizations by Edward and Janis Donaghy to reattribute Edward's two \$20,000 total joint contributions from him to her (see Attachment #3, lines 19 and 25), which change of contributors Romney Victory has communicated to the individual committees that received their portions of the \$40,000, instructing them to amend their reports to show Janis Donaghy as the contributor. (See Attachment #6.) Before this re-attribution, Mr. Donaghy was \$3,800 above the PAC and state parties biennial limit; he is now \$36,200 below that limit.

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(d) Also because Romney Victory transferred a total of \$11,700 to four state GOP committees (\$2,925 each) and later transferred two \$5,000 contributions to each of these same states, each of the four GOP committees refunded \$2,925.00 to Romney Victory on Mr. Donaghy's behalf; on July 8, 2013, Romney Victory refunded this \$11,700 to Edward Donaghy. (See Attachments #3, line 26 and #5.)

Before the one re-attribution and these refunds, Edward Donaghy was \$49,200 above the limit for national parties and local state parties and PACs; he is now \$12,500 below the limit.

Therefore, from Edward Donaghy's proactive activities since receiving your letter, he went from being \$56,000 over his total contribution limit in 2011-2012, to being under it by \$21,700.

Third, for your information, the Donaghys' checks to this joint fundraising committee and to all federal committees were community property.

Fourth, Janis Donaghy's contribution history shows that her becoming the contributor of \$40,000 of contributions through the Romney Victory joint fundraising committee to four state GOP committees keeps her below her 2011-2012 applicable biennial limits. (See Attachment #4.)

Future Compliance

By using our firm's Excel spreadsheets, or a similar method, both Edward and Janis Donaghy will henceforth ensure that their federal contributions remain within the applicable biennial limits, if those limits remains the law. They now understand the biennial total limit, and they understand the very confusing sub-limits by categories.

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Summary

Edward Donaghy would have never intentionally violated the FECA biennial limits, and he apologizes for his inadvertent actions. Mr. Donaghy believes he has done everything possible to remedy his over limit contributions from those who received them, enough to now be well within those limits, and he and his wife now have a compliance system in place to track all their future federal contributions.

Mr. Donaghy asks the Commission to take these facts into consideration as you address this matter, and he asks the FEC not to take action against him.

Alternative Dispute Resolution

Should the Commission conclude that Mr. Donaghy's facts and remedial efforts to comply with the Federal Election Campaign Act were, and are, not enough to avoid moving forward, I have explained to him that the FEC has an Alternative Dispute Resolution process, how it works and why the Commission should be asked to approve it for his matter if enforcement is to ensue. Since there are no facts in dispute, Mr. Donaghy prefers ADR and prefers a speedy resolution. He will cooperate fully and timely.

Please feel free to contact me if you need any additional information or if you want to discuss this matter with me or with Edward Donaghy.

Very truly yours,


Vigo G. Nielsen, Jr.

VGN/cll
Enclosures
#8259.01

Chip Nielsen

From: Chip Nielsen
Sent: Thursday, May 23, 2013 6:10 PM
To: 'fhampton@fec.gov'
Subject: MUR # 6734 Designation of Counsel from Edward J. Donaghy to FEC OFFICE

2013 JUL 11 11:12:37

TO: Frankie D. Hampton, Paralegal Specialist
Federal Election Commission
Office of General Counsel, CELA Division
999 E Street, N. W.
Washington, DC 20463

FROM: Vigo, G. Nielsen, Jr., counsel to Edward J. Donaghy

DATE: May 23, 2013

RE: MUR 6734

Attached please find the Statement of Designation of Counsel from Edward J. Donaghy, in response to the FEC's letter to him dated May 14, 2013. Mr. Donaghy informs me that he received it on May 20, 2013.

It will take considerable time for me to review all his and his wife's federal contributions made in 2011-2012. He has just retained this firm to assist him in making a complete answer to the complaint. He is compiling his records, but we have not yet received them.

As we discussed today, we respectively seek an extension of an additional 30 days to reply.

The CREW complaint and the HuffPost attachment did not include a list of contributions that they believed our client made in 2011-2012. If either provided it to the FEC, may I have a copy?

If the FEC has made a list of the contributions that it believes our client made in 2011-2012, may I have a copy?

If there is anything else the FEC needs from me now, please do not hesitate to ask.

Chip Nielsen

Vigo G. Nielsen, Jr.
NIELSEN MERKSAMER
PARRINELLO GROSS & LEONI LLP
2350 Kerner Boulevard, Suite 250
San Rafael, California 94901
t: 415.389.6800 | f: 415.388.6874
www.nmgovlaw.com



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
FAX (202) 219-3923

MUR # 6734

NAME OF COUNSEL: Vigo G. Nielsen, Jr.

FIRM: Nielsen Merksamer Parrinello Gross & Leoni LLP

ADDRESS: 2350 Kerner Boulevard, Suite 250

San Rafael, CA 94901

TELEPHONE- OFFICE (415) 389-6800

FAX (415) 388-6874

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5-23-2013

Date

Respondent/Agent -Signature

Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Edward J. Donaghy

MAILING ADDRESS:
(Please Print)

Fresno, CA 93725

TELEPHONE- HOME ()

BUSINESS (559) 486-0901

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation

Rev. 2006

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ATTACHMENT
#2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 2013

VIA FIRST CLASS MAIL

Vigo G. Nielsen, Jr.
Nielsen Merksamer
Parrinello Gross & Leoni LLP
2350 Kerner Boulevard, Suite 250
San Rafael, California 94901

RE: MUR 6734
Edward J. Donaghy

Dear Mr. Nielsen:

This is in response to your letter dated May 23, 2013, which we received that day requesting a 30-day extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on or before July 6, 2013.

If you have any questions, please contact me on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Frankie D. Hampton".

Frankie D. Hampton, Paralegal
Complaints Examination and
Legal Administration